

MINUTES OF THE APRIL 22, 2014 PLANNING BOARD  
BOROUGH HALL, BOROUGH OF HILLSDALE

MEMBERS PRESENT: E. Alter, M. Kates, F. Franco, J. Miano, J. Traudt,  
Councilman Kelly, M. Giancarlo, L. Calabria, Z. Horvath, E. Lichtstein  
M. Arnowitz

MEMBERS ABSENT: None

EMPLOYEES PRESENT : Nylema Nabbie, Esq., Board Attorney  
Christopher Statile, P.E., Board Engineer  
Paul Grygiel, Board Planner  
Caitlin Chadwick, Acting Deputy Secretary

Chairwoman Calabria called the meeting to order at approximately 7:45 pm with a reading of the Open Public Meetings Statement.

OPEN TO PUBLIC:

As no one wished to speak, the open session was closed to the public.

MINUTES:

The *April 9, 2014* minutes were approved by the Board.

BILLS:

Invoices No. 14-00810 and No. 14-00828 from Phillips Preiss Grygiel LLC were approved by the Board.

Due to the nature of the pending applications, at 7:49pm, Councilman Kelly recused himself and left the chambers.

RESOLUTIONS:

*Resolution No. 2014-09, Amato; Block 504, Lot 1.01; Approval of Bulk Variance for Pool and Patio* were approved by the Board.

PUBLIC HEARINGS:

*PZ-02-14, Andrew & Noreen Cohen; Block 202, Lot 9; 56 Royal Park Terrace*  
*Bulk variance application for side & front yard setbacks for new in-ground pool and patio*

Counsel for the Applicant, Robert J. Mancinelli, Esq., began by calling his first witness, Thomas Skrable, P.E. Mr. Mancinelli discussed the need for variances for the size and location of Mr. Cohen's patio. Specifically, the size of the patio being proposed is almost double the size permitted. Furthermore, the proposed side yard setback is only 13 ft., where Hillsdale zoning requires a minimum of 25 ft.

Addressing concerns regarding runoff and erosion issues, Mr. Skrable explained how Mr. Cohen's proposed patio, complete with a stone drain/trench around it, will actually cause a net **decrease** in the amount of water runoff that flows from this specific area of Mr. Cohen's property into neighboring yards.

At 8:06pm, applicant Mr. Andrew Cohen was sworn in. A set of photographs were presented to the Board marked **Exhibit(s) A-1 through A-11**. Mr. Cohen stated that he considered moving the pool farther south, as well as reversing the pool layout. Mr. Skrable contributed, informing the Board that the flat area of the property is the northerly end and therefore the most logical place for a patio.

The meeting was opened to the public, at which time Ken Montagno of 72 Royal Park Terrace asked Mr. Skrable if the proposed boulder wall around the pool will elevate the property from where it stands today. Mr. Skrable answered yes at maximum, a height of 3 feet. Mr. Skrable further explained that if the pool were placed farther south, it would increase the height of wall needed and claimed no change occurs to the slope or direction of runoff. He repeated and elaborated on his previous statement that the proposal reduces and mitigates the amount of runoff going to Mr. Montagno's property.

Ms. Florence Montagno then came before the Board to ask if Mr. Cohen's proposed pool placement would add to her and her husband's existing erosion issues, expressing that previous homeowners had raised Mr. Cohen's property. Mr. Skrable answered her question, specifying that two things will occur with the proposed application. First, the installation of the wall will create a grade plateau. Second, the water from the entire disturbed area will be collected with a drain and taken in a different direction.

Mr. Skrable stated that a stone drain will be installed all the way around the patio with a perforated pipe to take water to a new, 2,000-gallon seepage pit.

Mr. Mancinelli then called his second witness Joshua Hampton of Landscape Perceptions who prepared the submitted 11/7/2013 landscape plan. Mr. Mancinelli asked Mr. Hampton if he believed the safety of the design is appropriate for this site. Mr. Hampton answered in the affirmative and confirmed that he will be adding plants and trees around the pool and property line.

Mr. Horvath asked if a new fence was to be installed around the pool area and if so what type. Mr. Cohen answered yes and explained that the fence style would most likely be chain link with decorative elements. Mr. Hampton confirmed that the fence needs to be a minimum of 4 feet tall to meet pool codes. Mr. Hampton further confirmed that there will be no fence around the property line, just the pool area. Furthermore, no trees will be removed and the Cohen's will maintain the existing large cypress and magnolia trees.

Ms. Montagno expressed concern to the Board and Witnesses that her arborvitae trees are quite sparse and asked Mr. Skrable about the natural rock wall previously built on the Cohen's property. Ms. Traudt asked if the applicant would be willing to improve the arborvitae trees. Mr. Cohen answered that yes, he would be willing to do so, replacing a total of 7 arborvitae trees. Mr. Skrable revealed that the curb of the Montagno's driveway encroaches onto the Cohen's property.

Ms. Montagno described the erosion problem on her property in detail and further stated that her intention is not to eliminate her current problem, only to ensure it is not worsened by what Mr. Cohen is proposing. Mr. Statile confirmed that the Cohen property slopes to the Montagno's property, and that there will indeed be some topographical disturbances that will change the drainage on the subject site. He suggested the possibility of extending the rock wall as a way to slow down runoff. The Board discussed and deliberated the application.

Dr. Lichtstein made a motion to approve both variances with conditions. Mayor Arnowitz seconded the motion made by Dr. Lichtstein. All Board members eligible to vote for this application voted in favor of it. The application was approved.

The Board then took a short recess. At 9:30pm, the Board returned from their recess. The Mayor recused himself and left the chambers.

***PZ-12-12; 225 Washington Ave., MJL, LLC; Block 1406, Lot 3; 150 Magnolia Avenue***  
***Use variance application***

Counsel for the Applicant is Mr. Allen M. Bell, Esq.

The meeting was opened to the public and the opposing group was allowed to begin their presentation. Theresa Henry began her presentation by reviewing facts from previous hearings, specifically the lease agreement Ms. Lally is proposing to have with her tenants. Ms. Henry presented two documents which compared and contrasted 150 Magnolia house with Oxford House. Mr. Bell expressed that he did not have any objections to the exhibits, but the subject matter of them was Oxford House, not 150 Magnolia House. They were marked **OB-5 and OB-6**.

Ms. Mary Ellen Breen then continued the presentation by referencing an ad Ms. Lally made on sober.com sometime last year without prior approval from the Board. Ms. Breen also referenced Mr. Polito's testimony, during which he stated that this would be a "transitional facility." Ms. Breen emphasized that 150 Magnolia will be more of a business than a traditional home, referencing Ms. Lally's highly selective preferences as to whom she will rent to, the price she plans on charging for rent, and of course the variety in amount of time tenants will lease for. Ms. Breen cited similarities between "Fabrics V. DCA" and 150 Magnolia House, among those similarities, the different lease dates, the communal kitchen and bath, as well as the tenants all being unrelated to each other.

Matthew Scozzafava of 167 Magnolia Ave continued the presentation. He made references to the Sica law case and presented a document from July 2013 which contained statistics from NJ Drug & Alcohol. He requested that this be marked as evidence, to which Mr. Bell objected and it was therein marked **OB-8**. Questions regarding the use of evidence were discussed between Mr. Scozzafava and the Board. Mr. Scozzafava then continued, stating the applicant is being highly selective in who she will rent to. He referenced a previous quote Ms. Lally made in one of her ads which listed the requirements her prospective tenants must meet as follows: highly selective clientele; men only; over the age of 30; clients without physical and mental challenges; well to do, educated professionals.

Mr. Scozzafava then requested the Power Point presentation be labeled as evidence to which Mr. Bell objected, stating that only the verbal testimony is admissible. He noted the presenting residents' testimonies did not match word-for-word what was written on the Power Point presentation. The residents were given the option of going through their entire presentation again from the beginning, reading off the slides word for word, and then they would be able to count this as a piece of evidence.

The fourth resident to speak was Jason Bohan of 170 Magnolia Ave. He discussed comparisons between Oxford House and 150 Magnolia House, as well as an 8/29/13 DCA field inspection, wherein the field inspector found it to be a 2 family home. This document was marked **OB-10**. Mr. Bell allowed this as a piece of evidence, under the condition that he may add as evidence an 8/28/13 letter from the State of NJDCA to Donna Lally.

The fifth and final resident to speak was Diane Scozzafava. She spoke about third floor occupancy in the 150 Magnolia House, and referenced Section 310-4 which was marked **OB-11**. She also discussed Mr. Burgess, the planner, referencing the "About Us" section of his business website, which was marked **OB-12**. Ms. Scozzafava brought an email to the Board's attention which was dated 11/27/13 from Hillsdale zoning official Tracy Jeffrey to resident Mr. Kevin O'Brien, titled "re: no 3<sup>rd</sup> Floors in Hillsdale." The email was not read. Mr. Bell and the Board discussed arranging for Ms. Jeffrey to come to the next meeting with Borough documents in order to testify. Ms. Scozzafava continued with the presentation, discussing Ms. Lally's rental prices.

At 10:50pm, Ms. Scozzafava spoke on behalf of the group of opposing residents, confirming that they would like to start their presentation over and read it word-for-word, in order to use the Power Point presentation as evidence.

Mr. Bell will provide a complete listing of marked exhibits to the Board attorney.

The application was carried to May 14<sup>th</sup>, 2014.

At approximately 11:00pm, the meeting was adjourned.

Respectfully submitted,

Caitlin Chadwick  
Acting Deputy Secretary